

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
SECOND DEPARTMENT

People v. Fletcher

2026 NY Slip Op 02417 (Supreme Court of the State of New York Appellate Division Second Department 2026)
· No. 2023-03867 · Decided April 22, 2026

SUMMARY

The Appellate Division, Second Department affirmed Shawn Fletcher's judgment of conviction for criminal possession of a weapon in the second and third degrees. The court upheld the denial of suppression, concluding that police had reasonable suspicion and probable cause after observing Fletcher with a gun and that Fletcher abandoned the weapon. The court also rejected claims concerning credibility of police testimony, ineffective assistance of counsel, prosecutorial summation remarks, and excessive sentencing.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Second Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Deborah A. Dowling, J.; Lourdes M. Ventura, J.; Donna-Marie E. Golia, J.
JURISDICTION	New York Appellate Division, Second Department
DECIDED	April 22, 2026
DOCKET	2023-03867
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed from a judgment of the Supreme Court, Kings County, entered after a jury verdict convicting him of criminal possession of a weapon in the second degree and criminal possession of a weapon in the third degree and imposing sentence. The appeal also reviewed the denial, after a suppression hearing, of the branch of defendant's omnibus motion seeking suppression of physical evidence.
STANDARD OF REVIEW	The People initially bear the burden of going forward to establish the legality of police conduct on a motion to suppress physical evidence, while the defendant bears the ultimate burden of proving that the evidence should not be used. The appellate court defers to the hearing court's credibility determinations, exercises factual review power under CPL 470.15(5), and reviews preservation under CPL 470.05(2).

	Claims of ineffective assistance under the New York Constitution are evaluated under the meaningful-representation standard, while federal claims are evaluated under <i>Strickland v. Washington</i> .
PRECEDENTIAL VALUE	published
PARTIES	Shawn Fletcher v. The People of the State of New York

TOPICS

suppression of evidence

search and seizure

probable cause

ineffective assistance

prosecutorial misconduct

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether the police had reasonable suspicion to pursue Fletcher and probable cause to arrest him after seeing him with a gun.
2. Whether Fletcher abandoned the gun and therefore lacked standing to challenge its seizure and admission into evidence.
3. Whether the challenge to the credibility and alleged tailoring of a police officer's suppression-hearing testimony was preserved for appellate review and, if considered, had merit.
4. Whether defense counsel's failure to specifically argue that the officer's testimony was incredible as a matter of law constituted ineffective assistance under the New York or United States Constitution.
5. Whether prosecutorial remarks during summation deprived Fletcher of a fair trial and whether counsel's failure to object constituted ineffective assistance.
6. Whether the sentence imposed was excessive.

HOLDINGS

1. The suppression court properly determined that the police had reasonable suspicion to pursue Fletcher and probable cause to arrest him because the officers did not pursue or seize him until after seeing him with a gun.
2. Fletcher abandoned the gun when he threw it beneath a tree and therefore lacked standing to contest its subsequent seizure and admission into evidence because he did not show that the abandonment was caused by unlawful police conduct.
3. Fletcher's contention that the officer's testimony was incredible as a matter of law and patently tailored to overcome constitutional objections was unpreserved because it was not raised in the manner required for appellate review; in any event, the contention lacked merit.

4. Defense counsel's failure to specifically argue that the officer's testimony was incredible as a matter of law and patently tailored did not deprive Fletcher of effective assistance under the New York Constitution because counsel provided meaningful representation; the federal ineffective-assistance claim also failed.
5. Most challenged prosecutorial remarks were proper, and any improper remarks were not so flagrant or pervasive as to deprive Fletcher of a fair trial. The partially unpreserved claim did not warrant reversal, and counsel's failure to object did not constitute ineffective assistance.
6. The sentence imposed was not excessive.

KEY QUOTATIONS

“On a motion by a defendant to suppress physical evidence, the People have the burden of going forward to show the legality of the police conduct in the first instance” (at *1)

“The defendant bears the ultimate burden of proving that the evidence should not be used against him or her” (at *1)

“The hearing court's credibility determinations are entitled to deference on appeal” (at *1)

“within the broad bounds of rhetorical comment permissible in closing arguments, constituted a fair response to arguments made by defense counsel in summation, or constituted fair comment on the evidence” (at *2)

FACTUAL BACKGROUND

Police officers did not pursue or seize Fletcher until after they saw him with a gun. Fletcher then threw the gun beneath a tree, and the police subsequently seized it. At the suppression hearing, the court credited an officer's testimony regarding the circumstances of the pursuit, arrest, and seizure; the Appellate Division found no basis to disturb that credibility determination.

PROCEDURAL HISTORY

The Supreme Court, Kings County, denied defendant's motion to suppress physical evidence after a hearing. Following a jury trial, the court convicted defendant of second- and third-degree criminal possession of a weapon and imposed sentence. The Appellate Division affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- People v. Greenland, 243 AD3d 587, 588
- People v. Johnson, 243 AD3d 679, 680
- People v. Fasoli, 242 AD3d 900, 901
- People v. Gaddy, 241 AD3d 578, 579

- People v. Avant, 216 AD3d 662, 664
- People v. Sumpter, 286 AD2d 450, 451
- People v. White, 153 AD3d 1369, 1370
- People v. Amuso, 44 AD3d 781, 783
- People v. Delgado, 221 AD3d 909, 910
- People v. Taylor, 120 AD3d 519, 520
- People v. Turner, 203 AD3d 758, 760
- People v. Martinez, 180 AD3d 809, 810
- People v. Debillis, 40 NY3d 431, 436
- People v. Benevento, 91 NY2d 708, 712
- Strickland v. Washington, 466 US 668
- People v. Hankerson, 149 AD3d 778, 779
- People v. Manigat, 136 AD3d 614, 616
- People v. Morales, 201 AD3d 819, 819-820
- People v. Anderson, 213 AD3d 687, 688
- People v. Ingrassia, 207 AD3d 751, 752
- People v. Suitte, 90 AD2d 80